

**DEPARTMENT OF EDUCATION - OFFICE OF FISCAL SERVICES  
REQUEST and NOTICE OF EXEMPTION FROM PROCUREMENT**

**PART I - REQUEST FOR EXEMPTION FROM PROCUREMENT**

1. TO: DOE Chief Procurement Officer (**send completed original form to OFS Procurement and Contracts Branch**)

FROM: OCISS/SSSB/Special Education Section  
(Name of School or Program)

The school/program named above requests a procurement exemption as follows below.

2. This exemption is requested pursuant to:  
☒ §103D-102(b)(4), HRS and Chapter 3-120, HAR or  
☐ §103F-101(a)(4), HRS and Chapter 3-141, HAR

3. Island/District: ☒ Statewide or  
☐ Oahu ☐ Hawaii ☐ Kauai ☐ Maui

4. Description of the proposed purchase (attach additional sheets if necessary):  
Indicate one category: ☐ good ☐ service ☐ construction ☐ Health/Human service ☒ professional service  
Brief description: **IDEA Technical Assistance to DOE.** Pursuant to Individuals with Disabilities Education Improvement Act of 2004 (IDEA) general supervision, the vendor will provide technical assistance to the hearings officers conducting IDEA due process hearings which may include interpretation of federal and/or state regulations, federal case law, legal accuracy of the administrative hearing decisions, and national legal trends in the area of IDEA. The vendor will provide technical assistance to the DOE personnel which include national legal trends in IDEA, federal case law, and updated on federal requirements.

5. Vendor Information  
Name: Arthur W. Cernosia  
Address: 4623 East Hill Road,  
Williston, VT 05495

6. Term of Contract  
From: upon approval  
To: 6/30/2010

7. Total Cost: 65,000.00

8. Explanation describing how procurement by competitive means is either **not practicable** or **not advantageous** to the State (attach additional sheets if necessary):

See Attachment 1.

9. Details of the process or procedure to be followed in selecting the vendor to **ensure maximum fair and open competition** as practicable (attach additional sheets if necessary):  
Office of Curriculum, Instruction and Student Support (OCISS) has reviewed vitae of various consultants. This vendor is unique and we have yet to find another with his skill, expertise, experience and presentation technique.

10. A description of the school/program internal controls and approval requirements for the exempted procurement (attach additional sheets if necessary):

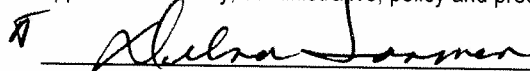
Contract will be reviewed by the Attorney General as well as OCISS administration. Contract Administrator/Program Manager will monitor and administer the contract. Financial System requirements will assure that payments are adjudicated against department policies and requirements. DOE will require the usual vendor certificates. We receive evaluation sheets for each presentation contractor provides to the various groups. There are hundreds of participant and the evaluations are overwhelmingly positive. Personnel are upset when they are turned away from the presentations because there is no space available.

11. List of school/program personnel who will be involved in the approval process and administration of the contract (attach additional sheets if necessary):

<u>Name</u>	<u>Title</u>	<u>Involvement in process</u>
Debra Farmer	Administrator, SES	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Taren Taguchi	Educational Specialist, CMP	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Daniel Hamada	Assistant Superintendent	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration

12. This exemption should be recommended to the Procurement Policy Board to be considered for the list of exemptions attached to Chapter 3-120 or 3-141, HAR: ☐ Yes ☒ No

13. I hereby certify that the information provided above is, to the best of my knowledge, true and correct; and that all applicable statutory, administrative, policy and procedures have or shall be complied with.

  
Administrator's Signature & Title

6/23/09  
Date

#### PART II - NOTICE OF EXEMPTION FROM PROCUREMENT

The school/program named below intends to exempt the goods, services, or construction (as described in the request below) from procurement for good cause. The Chief Procurement Officer is in the process of reviewing this request.

Inquiries and questions about this request may be directed to:

Name/Title: Taren Taguchi, Educational Specialist  
School/Program: Complaints Management Program  
Address: 637 18<sup>th</sup> Avenue, Room C-102  
Telephone No.: 808-733-4403  
email address: taren\_taguchi@notes.k12.hi.us

Written objections to this Notice of Exemption must be received within seven (7) calendar days from the date this notice was posted, and shall be directed to:

Chief Procurement Officer, Department of Education  
Procurement & Contracts Branch, OFS  
94-275 Mokuola Street Room 200  
Waipahu, Hawaii 96797  
Telephone Number: 808-675-0130  
email address: DOEprocure@notes.k12.hi.us

#### Reserved for Procurement Office Use

14. Chief Procurement Officer's Comments:

15. ☐ Approved  
☐ Disapproved  
☐ No Action

Patricia Hamamoto, Superintendent & CPO

Date

c: Administrator, State Procurement Office

Request for Exemption  
Attachment 1

8. Explanation describing how procurement by competitive means is either **not practicable or not advantageous** to the State:

The Department of Education is federally mandated to provide impartial hearing officers for the adjudication of special education due process hearing requests. In addition to the procurement of hearings officers (through an MOA with the Department of Commerce and Consumer Affairs), the Department of Education is also required to provide technical assistance to the hearings officers as they interpret the federal and state regulations regarding Individuals with Disabilities Education Improvement Act (IDEA) of 2004 and issue final decisions and orders. This technical assistance cannot be provided directly by the Department of Education, because the Department of Education is a party to the hearings before the hearings officers. Therefore, this contract is required to satisfy the federal requirements to provide impartial technical assistance to the hearings officer from a nationally recognized attorney who specializes in special education law.

DOE personnel are required to maintain a level of knowledge about IDEA and Chapter 56 implementation of education to special education students. Contractor has over 30 years of experience in education and special education. Contractor has a long history with Hawaii and is intimately involved in Hawaii's case law, statutes, rules and Department policies on special education. Contractor is a part-time resident of Hawaii and is culturally-sensitive to the challenges of a multi-cultural community. Contractor reads at least one Hawaii newspaper a day online. Contractor digests all the cases on special education in the United States District Court, United States Appeals Court, and the United States Supreme Court. Contractor synthesizes the national trends with the Hawaii law to inform the DOE personnel and the DCCA hearings officer of the contrast between the national trends and the Hawaii trends. The information necessary for DOE personnel and DCCA personnel to absorb is laborious and technical. However, contractor has a unique interactive presentation style that incorporates excellent learning strategies so large audiences internalize the information and are able to remember it for their use in the educational field. Contractor can speak to lay personnel in a simple way about complex legal issues. Contractor has been asked to speak at many national conferences on special education and has been a regular presenter at the esteemed LRP's National Institute on Legal Issues of Educating Individuals with Disabilities. At the 30th LRP conference, Contractor was honored with an award for his outstanding contribution to the special education community for a long commitment to the presentation of legal issues in special education. Contractor's materials are equally superior. Contractor uses his succinct digest of the case law to present interpretations of the courts across the nation. Contractor's materials supplement the presentation and are used as a reference for personnel in the field. Contractor is a former social studies teacher who uses teaching skills to present an otherwise mundane topic to his audience.

We believe that this vendor is so unique experienced that a competitive solicitation would not yield different results.